UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

IN CLERK'S OFFICE U.S. DISTRICT COURT E.D.N.Y

IFETA DZIDZOVIC, individually and on behalf of a class,

LONG ISLAND OFFICE

SEP 2 1 2011

Plaintiff.

CV-11 4576

VS.

FMA ALLIANCE, LTD.

IRIZARRY, J.

Defendant.

REYES, JR, M.

COMPLAINT - CLASS ACTION INTRODUCTION

SUMMONS ISSUED

Plaintiff brings this action to secure redress against unlawful credit and collection 1. practices engaged by defendant FMA ALLIANCE, LTD. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").

The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

- This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337 and 15 U.S.C. §1692k 2. (FDCPA).
- Venue and personal jurisdiction over defendant in this District is proper because 3. defendant's collection activities impacted plaintiff here and because defendant transacts business here.

PARTIES

- 4. Plaintiff Ifeta Dzidzovic is an individual who resides in Queens, New York.
- Defendant FMA Alliance, Ltd. is a Texas Limited Partnership. Its Registered Agent is 5. the CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

FACTS

- 6. On or about August 13, 2011, plaintiff was mailed the letter attached as <u>Exhibit A</u> and on or about August 17, 2011 plaintiff was mailed <u>Exhibit B</u>. Plaintiff received them in the ordinary course of mail.
- 7. <u>Exhibit A</u> sought to collect a debt incurred for personal, family or household use and not for business purposes but failed to recite that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose.
- 8. <u>Exhibit B</u> sought to collect a debt incurred for personal, family or household use and not for business purposes.
- 9. Exhibit A and Exhibit B are, on information and belief, form letters.

VIOLATIONS ALLEGED

10. <u>Exhibit A</u> violates 15 U.S.C. §§1692e, 1692e(10) and 1692e(11) by failing to disclose that defendant was attempting to collect a both debt and information in furtherance of debt collection by a debt collector.

CLASS ALLEGATIONS

- 11. Pursuant to Fed.R.Civ.P. 23(a), plaintiff brings this claim on behalf of a class.
- 12. The class consists of (a) all natural persons with addresses in New York (b) who were sent a letter as Exhibit A (c) seeking to collect a debt (d) on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.
- 13. The class is so numerous that joinder is impracticable.
- 14. On information and belief, there are more than 50 natural persons with addresses in New York City who were sent a letter similar to Exhibit A on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.

15. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members.

The predominant common questions are:

- a. Whether consumers were notified that the August 13, 2011 letter emanated from a debt collector rather than an ordinary vendor of Discover Bank.
 - b. Whether the letter violates the FDCPA.
- 16. Plaintiff's claims is typical of the claims of the class members. All are based on the same factual and legal theories.
- 17. Plaintiff will fairly and adequately represent the interests of the class members.

 Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.
- 18. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible. The nature of the wrong depends on the deception of the consumer, so it is unlikely to be detected or remedied without a class action.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendant for:

- a. An Order Declaring Defendant's letter violates the FDCPA;
- b. Statutory damages;
- c. Attorney's fees, litigation expenses and costs of suit;
- d. Such other or further relief as the Court deems proper.

KLEINMAN LLO

Abraham Kleinman (AK-6300)

626 RXR Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621 Facsimile (888) 522-1692

JURY DEMAND

Plaintiff hereby demands trial by jury.

Abraham Kleinman (AK-6300)

McGase Initiaday-8.45 AM-Di-I-REFCs Document 1 Filed 09/21/11 Page 6MASAHiagrap #td. Friday: 8:00 AM - 4:30 PM CST 12339 Cutten Road Saturday: 8:00 AM - 12:00 PM OST Houston, Texas 77066 877-259-3228

Personal & Confidential

08/13/2011

Creditor:

Discover Bank

Account #: 6011002890749021

Dear IFETA DZIDZOVIC:

We have recently been retained by Discover to assist in managing your account.

As such, our company needs to determine the current status of your account.

The first step in this process is for our company to ascertain whether or not you have filed, or intend to file bankruptcy. To assist us in gathering this information, please provide us with the following information:

•
near future on this matter.

DEPT, 287 PO BOX 4129 CONCORD CA 94524 - Profilie Colafion with the last death india tool deed out the part in the color for the color of the color 08/13/2011

ADDRESS SERVICE REQUESTED

#BWNFTZF #FMB5241807211085# <u>գՄարոսիիգոինաբաննընՈրևնագնաՍիակուՈրքնրդիրձիքիր</u>ի

IFETA DZIDZOVIC 3012 23PD ST APT 3 **ASTORIA NY 11102-3324**

Deloris Kennebrew Unit Manager

> FMA Alliance, Ltd. P.O. Box 2409 Houston, TX 77252-2409



Hours of Gase 1.11-cv-04576-DLI-RER Document 1 Filed 09/21/11 Payer 40/18/19/19 8

Mon-Fri 8 AM - 9 PM Central Time Saturday 8 AM - 12 PM Central Time

Personal & Confidential

08/17/2011

File #: 27815225

Creditor: Discover Bank

Account #: 6011002890749021

File# 27815225

Total Balance Due: \$3291.71 as of 08/17/2011

Dear IFETA DZIDZOVIC:

This account has been listed with our office for collection.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing that this debt, or any portion thereof, is disputed, within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Notice About Electronic Check Conversion: When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account of to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment and you will not receive your check back from your financial institution. Also, you authorize us to re-present a check as an electronic fund transfer from your account if your payment is returned unpaid.

New York City Department of Consumer Affairs License # 1034196 - Houston, TX New York City Department of Consumer Affairs License # 1344768 - College Station, TX The original creditor on the above referenced account is Discover Bank. The call back person is manager Deloris Williams or one of his/her team members.

This has been sent to you by a debt collector.

This is an attempt to collect a debt. Any information obtained will be used for that purpose.

***** Please detach and return lower portion with payment ******

FM86100-0817-179447980 149

DEPT. 287 PO BOX 4129 CONCORD CA 94524

ADDRESS SERVICE REQUESTED

IFETA DZIDZOVIC 3012 23RD ST APT 3 ASTORIA NY 11102-3324 Make your check payable to FMA Alliance, Ltd.

12339 Cutten Road

Houston, Texas 77066 877-259-3228

Amount Paid: \$_____

Account #: 6011002890749021 Creditor: Discover Bank

Please send all correspondence to:

FMA Alliance, Ltd. P.O. Box 2409 Houston, TX 77252-2409

Diacquer Bank